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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, MARCH 1, 2001

APPLICATION OF

DELMARVA POWER & LIGHT COMPANY

CASE NO. PUE000744

Virginia Fuel Rate Filing
To implement Tax and Fuel Rate
Changes Effective January 1, 2001

ORDER ESTABLISHING FUEL FACTOR

On November 17, 2000, Delmarva Power & Light Company (“Delmarva” or “the Company”) filed an application to modify its current fuel factor of 1.917¢/kWh, increasing it to 2.1702¢/kWh effective January 1, 2001, subject to certain adjustments as described below. The proposed fuel factor is the sum of (i) a fixed component of 2.0452¢/kWh, and (ii) a 24-month adjustment of 0.125¢/kWh to permit the Company to collect a negotiated, deferred fuel balance. As discussed below, the fuel factor proposed in this application corresponds to agreements between the Company and the Commission Staff embodied in a Memorandum of Agreement (“MOA”) filed by the Company with a Motion on June 12, 2000, in Case No. PUE000086. The MOA was confirmed in a Staff report filed in that case on June 15, 2000, and further approved by this Commission in its June 29, 2000, Order in that matter.

By way of background, on February 4, 2000, the Company filed a plan for the transfer of its generation assets to third parties and an affiliate. The Company’s application filed in Case No. PUE000086 was made under § 56-590 of the Virginia Electric Utility Restructuring Act (“Restructuring Act”),¹ under the Utilities Facilities Act (“Facilities Act”), and under the Utilities Transfers Act (“Transfers Act”).² Delmarva sought in that application, inter alia, a three-phase divestiture of all of its generating units.

¹ Chapter 23 (§ 56-576 et seq.) of Title 56 of the Code of Virginia

² Chapters 4 (§ 56-76 et seq.) and 5 (§ 56-88 et seq.) of Title 56 of the Code of Virginia, respectively.

In the course of proceedings in Case No. PUE000086, the Company entered into the MOA referenced above with the Commission Staff. The MOA constituted a detailed proposal to the Commission for the comprehensive resolution of numerous issues presented by Delmarva's application, as the same related to the Restructuring Act, the Transfers and Affiliates Acts, and the federal Public Utility Holding Company Act, or PUHCA.³

Significant to the Company's proposed fuel factor in this proceeding (Case No. PUE000744), a portion of the MOA proposed that the Company (i) maintain its current fuel factor of 1.917¢/kWh until the earlier of fifteen days following the complete divestiture of its generation units or January 1, 2001, (ii) reset its fuel factor to 2.1¢/kWh⁴ through a separate application upon the earlier of complete divestiture or January 1, 2001, and further to freeze the fuel factor at that level without any additional deferral of fuel costs until January 1, 2004, and (iii) establish a fuel index mechanism for determining its fuel factor effective January 1, 2004, and until the end of the capped rate period under the Restructuring Act. The MOA also provided that Delmarva would be permitted to add an adjustment to the fuel factor during a 24-month period beginning on the same date as the effective date of the 2.1¢/kWh fuel factor, for the purpose of collecting a negotiated deferred fuel balance of \$892,921.⁵ The settlement outlined in the MOA was based on the Company's historic fuel costs and, for the purpose of calculating the adjustment factor, a mix of actual and estimated data concerning the deferred fuel balance. The \$892,921 incorporated a one-time cost reduction of \$150,000, and assumed annual Company Virginia jurisdictional sales of 356,673,494 kWh over the 24-month collection period.

³ 15 U.S.C. §§ 79-79Z-6

⁴ The rate was calculated to include Virginia state gross receipts taxes.

⁵ In its November 17, 2000, filing in this matter, Delmarva determined the appropriate adjustment to be a factor equal to 0.125¢/kWh. Consequently, the fuel factor for the period January 1, 2003, through December 31, 2003, would be 2.0452¢/kWh. As provided in the MOA, the 0.125¢/kWh adjustment would expire on January 1, 2003, with no subsequent adjustment made for any under-recovery or over-recovery. Except for the \$892,921, there will be no further deferral of fuel costs recoverable in rates for any period until the termination of capped rates. Thereafter, such deferrals will be permitted only to the extent allowed by the Commission in any subsequent orders associated with periods following such termination.

As noted above, the MOA was filed by the Company on June 12, 2000; a Commission Staff report in support of the MOA was filed with the Commission on June 15, 2000. In its June 29, 2000, Order, the Commission approved the MOA, finding that its provisions, including those pertaining to the Company's fuel factor as described above, were "... in the public interest and that they will benefit Delmarva's customers."⁶ Ordering Paragraph (2) in that Order directed the Company to make a separate application pursuant to § 56-249.6 to increase its fuel rates in accordance with the MOA.

On December 22, 2000, the Commission issued an Order docketing this case and directing that the proposed fuel factor of 2.1702¢/kWh be made effective, on an interim basis, commencing with the January 2001 billing month. The Order also (i) scheduled a February 22, 2001, hearing for the purpose of receiving evidence concerning such proposed fuel factor pursuant to the provisions of § 56-249.6 of the Code of Virginia, and (ii) established a prehearing schedule for the Company, the Commission's Staff, and potential protestants.

More specifically, the December 22, 2000, Order directed that (i) any protestants in this matter file their notices of protest, protests, prepared testimony and exhibits intended for use at the hearing by January 29, 2001; (ii) the Commission Staff be permitted to rely on its report prepared and filed in Case No. PUE000086, supplementing the same, if at all, by February 10, 2001; and (iii) the Company file its rebuttal testimony, if any, by February 16, 2001. None of the foregoing was filed with the Commission, and thus the February 22, 2001, hearing proceeded on the basis of the Company's application in this matter together with pertinent provisions of this Commission's June 29, 2000, Order in Case No. PUE000086 as supplemented by the June 12, 2000, MOA in that case and the Commission Staff's report in support of such MOA filed in Case No. PUE000086 on June 15, 2000.

On February 22, 2001, the hearing in this matter was held before the Commission. Guy T. Tripp, III, Esquire, appeared on behalf of Delmarva; and Arlen K. Bolstad, Esquire, appeared on

⁶ Commission's Order in APPLICATION OF DELMARVA POWER & LIGHT COMPANY, for approval of a plan for functional separation of generation pursuant to the Virginia Electric Utility Restructuring Act, Case No. PUE000086; APPLICATION OF DELMARVA POWER & LIGHT COMPANY, CONNECTIV DELMARVA GENERATION, INC. and CONNECTIV ENERGY SUPPLY, INC., for approval of transactions under Chapters 4 and 5 of Title 56 of the Code of Virginia, Case No. PUA000032, pg. 4.

behalf of the Commission Staff. The Company relied on its filed application at the hearing, and the Commission Staff expressed no opposition to the relief requested therein. However, the Commission Staff did request that the Commission clarify in its final order that any change in the fuel factor approved by the Commission in this matter be made effective with *usage* on and after January 1, 2001. This clarification was sought by the Commission Staff to ensure that the timing of the change in the underlying fuel factor matched that of the elimination of the gross receipts tax in the fuel factor, i.e., corresponding to the statutory date of the tax's elimination, January 1, 2001.⁷ No protestants or public witnesses appeared at the hearing.

NOW THE COMMISSION, upon consideration of the record of this case, is of the opinion that the fuel factor increase proposed by the Company should be approved, subject to the terms and conditions established in the June 12, 2000 MOA discussed above, and approved by the Commission in its June 29, 2000, order in Case No. PUE000086. Accordingly,

IT IS ORDERED THAT:

(1) The zero-based fuel factor of 2.1702¢/kWh, established by Commission Order of December 22, 2000, in this proceeding, and made effective January 1, 2001, shall remain in effect for usage on and after January 1, 2001, subject to the further provisions of this Order. Such factor includes a 0.125¢/kWh adjustment of twenty-four consecutive months' duration, commencing January 1, 2001, for the Company's collection of a negotiated, deferred fuel balance described herein.

(2) The 0.125¢/kWh adjustment described in Ordering Paragraph (1) shall expire on January 1, 2003, and no additional or further proceeding shall be required for that purpose. The Company shall, however, make appropriate tariff filings to reflect the expiration of that adjustment.

⁷ As stated above, the June 12, 2000, MOA (approved by this Commission in Case No. PUE000086) proposed a fixed fuel factor of 2.1¢/kWh, inclusive of Virginia's gross receipts tax, for the three-year period, January 1, 2001, to January 1, 2004. The gross receipts tax for electric utilities was eliminated effective January 1, 2001, replaced by a consumption-based taxation system, all as provided in Senate Bill 1286 enacted by the 1999 Session of the Virginia General Assembly. Thus, effective January 1, 2001, the gross receipts tax portion of the 2.1¢/kWh fuel factor must be eliminated; the proposed 2.1¢/kWh fixed fuel factor minus the tax is calculated to be 2.0452¢/kWh. Adding in the twenty-four month 0.125¢/kWh adjustment for the Company's deferred fuel balance discussed above, results in a total zero-based fuel factor of 2.1702¢/kW from January 1, 2001, until January 1, 2003. Thereafter, from January 1, 2003, until January 1, 2004, the fuel factor will be 2.0452¢/kWh.

(3) Pursuant to the terms of the June 12, 2000, Memorandum of Agreement between the Commission Staff and the Company, and approved by the Commission in its June 22, 2000, Order in Case No. PUE000086, the Company shall hereafter make a timely application under § 56-249.6 of the Code of Virginia to reestablish its fuel factor effective January 1, 2004, in accordance with the Rate Case Protocol and Fuel Index Procedures made part of the June 12, 2000, Memorandum of Agreement.

(4) This matter is continued generally.